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NATIONAL COMMUNICATIONS COMMISSION  
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July 25, 2000

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**Ms. Magalie Roman Salas**  
Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

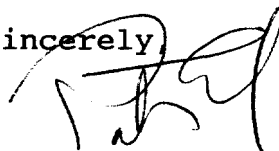
**Re: Amendment of Section 73.202(b)**  
**Table of Allotments**  
**FM Broadcast Stations**  
**(Dillsboro, North Carolina)**  
**MM Docket No. 00-88; RM-9871**

Dear Ms. Salas:

Transmitted herewith on behalf of Sutton Radiocasting Corporation is an original and four copies of its Reply Comments in support of the allotment of Channel 237A at Dillsboro, North Carolina in the above-referenced proceeding.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,



John F. Garziglia  
Patricia M. Chuh

Enclosures

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List A B C D E

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	MM Docket No. 00-88
Table of Allotments	)	RM-9871
FM Broadcast Stations	)	
(Dillsboro, North Carolina)	)	

To: Chief, Allocations Branch

**REPLY COMMENTS**

Sutton Radiocasting Corporation ("Petitioner"), by its attorneys, pursuant to the Notice of Proposed Rulemaking, DA 00-111, MM Docket No. 00-88, released May 19, 2000 ("NPRM"), hereby submits its Reply Comments in support of the allotment of Channel 237A to Dillsboro, North Carolina as that community's first local aural transmission service.<sup>1</sup> In support thereof, the following is respectfully submitted:

1. On July 10, 2000, Chase Broadcasting, Inc. filed a pleading titled "Comments and Counterproposal of Chase Broadcasting, Inc." ("Counterproposal"). In its Counterproposal, Chase Broadcasting, Inc. suggests that certain portions of the available site area for the Channel 237A allotment to Dillsboro, North Carolina are unsuitable for use as a transmitter site. As shown below, however, there are other

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<sup>1</sup> The NPRM set July 25, 2000 as the deadline date for reply comments in this proceeding.

areas within the allowable site area that are perfectly suitable for the use of a transmitter site and therefore there is no bar, legally or technically, to the allotment of Channel 237A to Dillsboro, North Carolina. In addition, Chase Broadcasting, Inc. counterproposes the allotment of Channel 237A to Rosman, North Carolina at special reference coordinates some 17.8 km distant from Rosman. As shown below, this Counterproposal is technically deficient. Assuming uniform terrain, the 70 dBu contour of a Class A station extends only 16.2 km. Therefore, city grade coverage is not obtained and the Counterproposal must be rejected. Finally, if it is determined that the Rosman Counterproposal is to be considered, it appears that there is an alternate channel which may be allotted to Rosman.

**CHANNEL 237A MAY BE ALLOTTED TO DILLSBORO IN COMPLIANCE WITH ALL TECHNICAL RULES.**

2. Chase Broadcasting, Inc. claims in its Counterproposal that at the reference coordinates specified by Petitioner, an excessive height tower near an airport may be required in order to provide service to Dillsboro. As noted in the attached engineering study, there is a fairly wide area in which to locate a proposed Channel 237A allotment to Dillsboro. Within that area to locate is a high point known as "Websters Knob". It is a suitable location for a transmitter site. A tower on

the Websters Knob site would need to be only 38 meters above ground in order to achieve an antenna height above average terrain of 150 meters. The coordinates of this site are 35° 15' 56" N. Latitude, 83° 09' 16" W. Longitude. To the extent necessary, Petitioner hereby requests that the reference coordinates for Dillsboro be modified to these coordinates which are fully spaced and which allow full city grade coverage to Dillsboro from a Channel 237A allotment. This proposed site is 14.5 km southeast of Dillsboro and the 70 dBu contour from a Channel 237A facility at these reference coordinates would cover Dillsboro with a 70 dBu signal, assuming uniform terrain.

**THE CHASE BROADCASTING, INC. COUNTERPROPOSAL FOR ROSMAN IS TECHNICALLY DEFICIENT.**

3. Chase Broadcasting, Inc. proposes the allotment of Channel 237A to Rosman at reference coordinates 17.8 km distant from Rosman. At a distance of 17.8 km from Rosman, however, city grade coverage of Rosman will not be obtained assuming uniform terrain. Commission precedent is clear. In making allocations, the Commission employs its standard propagation methodology which uses the F(50,50) curves to predict the distance to a given signal contour. The F(50,50) curves are based upon the propagation characteristics of radio signals in the FM band and assume an average of "uniform terrain". See

Caldwell, College Station and Gause, Texas, 15 FCC Rcd 3322, 3324-26(1998), recon. pending. The engineering showing submitted with the deficient Chase Broadcasting, Inc. Counterproposal uses actual terrain characteristics in calculating the coverage of the 70 dBu contour of the proposed Rosman facility. This is erroneous. Except for the circumstances set forth in Woodstock and Broadway, Virginia, 3 FCC Rcd 6398(1988), the Commission assumes uniform terrain in determining compliance with Section 73.315(a) of the Commission's rules. See Caldwell, College Station and Gause, Texas, 15 FCC Rcd at 3325.

4. It is well settled that Counterproposals are required to be "technically correct and substantially complete" at the time they are filed. See Cloverdale, Montgomery and Warrior, Alabama, 12 FCC Rcd 2090, 2093(1997), app. for rev. denied, FCC 00-169, released June 14, 2000. See also Fort Bragg, California, 6 FCC Rcd 5817 at fn. 2(1991) (counterproposal rejected for allotment site beyond maximum distance for 70 dBu contour); Provincetown, Dennis, Dennis Port, West Yarmouth and Harwich Port, Massachusetts, 8 FCC Rcd 1920(1992) (counterproposal rejected for failure to show specific reference coordinates). The Chase Broadcasting, Inc. Counterproposal is not technically correct and substantially complete as of the time it was filed. City grade coverage to Rosman will not be

provided since the required site restriction is greater than 16.2 km from Rosman. Using uniform terrain assumptions, the 70 dBu city grade contour for a Class A station extends only 16.2 km. See Willows, California, 11 FCC Rcd 9180(1996).

Accordingly, the Chase Broadcasting, Inc. Counterproposal must be rejected without further consideration.

**AN ALTERNATE CHANNEL IS AVAILABLE FOR ALLOTMENT TO ROSMAN.**

5. Despite the technical deficiencies surrounding the Rosman Counterproposal, if the Commission determines that it is in the public interest to make an allotment to Rosman, the Commission has, or will have, the option to do so. As shown in the attached engineering study, Channel 290A may be allotted to Rosman once a pending construction permit for WNGC(FM), Toccoa, Georgia is built and licensed. It is well settled that in the course of an allotment proceeding, the Commission may allot alternate channels in order to accommodate competing expressions of interests in different communities. See Perry, Cross City, Holiday, Avon Park, Sarasota and Live Oak, Florida; Thomasville, Georgia, 11 FCC Rcd 4643(1996). Further, the Commission encourages rulemaking proponents to propose alternate channels, particularly when those alternate channels might become available by subsequent events. See Brookville, Punxsutawney,

Johnsonburg, Indiana and Barnesboro, Pennsylvania, DA 96-206,  
released March 4, 1996.

6. The Commission thus has one of two options in making available an allotment to Rosman for applications. It may either reject the Counterproposal of Chase Broadcasting, Inc. for Channel 237A as technically deficient (as described above) with the advice that a Petition for Rulemaking may be filed for Channel 290A at Rosman once WNGC(FM), Toccoa, Georgia has been licensed at its new transmitter site. Or, the Commission may choose to hold in abeyance a resolution of this rulemaking proceeding until such time as WNGC(FM) has received its license for its modified facility at which time the Commission may allot Channel 290A in compliance with all Commission technical requirements.

#### **CONCLUSION**

7. The Chase Broadcasting, Inc. Counterproposal for Channel 237A at Rosman, North Carolina is technically deficient as it proposes reference coordinates 17.8 km from the city of license, which is well in excess of the 16.2 km that the 70 dBu contour for a Class A station extends using uniform terrain calculations. For this reason alone, the Chase Broadcasting, Inc. Counterproposal should be dismissed. Further, despite the questions Chase Broadcasting, Inc. has raised concerning the

availability of a transmitter site for a Channel 237A allotment to Dillsboro, North Carolina, there is a fairly wide area in which to locate a transmitter site, and as shown above, there exists a suitable transmitter site that is in accord with all Commission technical requirements for the allotment of Channel 237A to Dillsboro. If the Commission should decide that, even though technically deficient the Counterproposal for Rosman should be considered, then the Commission may allot alternate Channel 290A to Rosman so that both proposals may be accommodated.

WHEREFORE, for the reasons above, the Commission should allot Channel 237A to Dillsboro, North Carolina as the community's first aural transmission service.

Respectfully submitted,

**SUTTON RADIOCASTING CORPORATION**

By: 

\_\_\_\_\_  
John F. Garziglia  
Patricia M. Chuh  
Its Attorneys

Pepper & Corazzini, L.L.P.  
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July 25, 2000



**Sutton Radiocasting Companies  
Channel 237A  
Dillsboro, NC.**

**DA-00-111  
MM Docket No. 00-88  
RM-9871**

**JULY, 2000**

**TECHNICAL COMMENTS**

Attached are exhibits in support of Sutton Radiocasting Companies (SRC) request to add channel 237A to Dillsboro, NC as that city's first local aural service.

SRC proposes an alternate site from it's original proposal. The new site is located on what is commonly known as Websters Knob. The height at peak is 1219 meters AMSL. The proposed location is 1083 meters AMSL. The site HAAT is 113 meters and a supporting structure of 38 meters (125 feet) would be required to achieve an antenna COR of 150 meters HAAT. At this height an ERP of approximately 2.6kw would be needed to achieve a full class A facility.

Exhibit -1 is a spacing study showing the proposed site for SRC. Also included is the proposal to add channel 237A at Due West, SC. This proposal is not included in the current FCC CDBS database. This exhibit also includes a 16.2 KM token that clearly shows that the proposal would fully encompass Dillsboro, NC. From this proposed site, Dillsboro is located 14.5km along the 322.4 degree radial, clearly within the FCC limits. A total population within the 60 dBu (1.0 mV/m) contour is 52,117 persons according to the 1990 Census data.

Exhibit-2 is a spacing study from the proposed site of Chase Broadcasting, Inc. (CBI). This plot includes a 16.2 KM token that clearly shows the proposed city of Rosman, NC lies outside the 16.2 KM 70 dBu (3.16mV/m) contour of a class A city grade. From the proposed site of CBI, Rosman is 17.3 KM along the 133.2 degree radial, clearly outside the allowed maximum in Rule Making proceedings assuming flat terrain.

Offered as Exhibit-3 is a possible alternate to the CBI proposal. WNGC. Licensed to Toccoa, GA. has before the FCC an application to relocate it's C1 facility south of it's current operating location. Assuming the grant of this application, channel 290A would be available for Rosman. Exhibit-3 clearly shows that channel 290A could be allotted to Rosman within the 16 KM city grade limit as set forth in the Commis-sions rules.

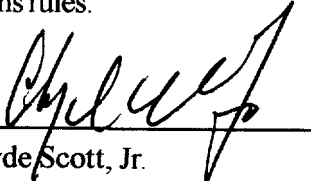
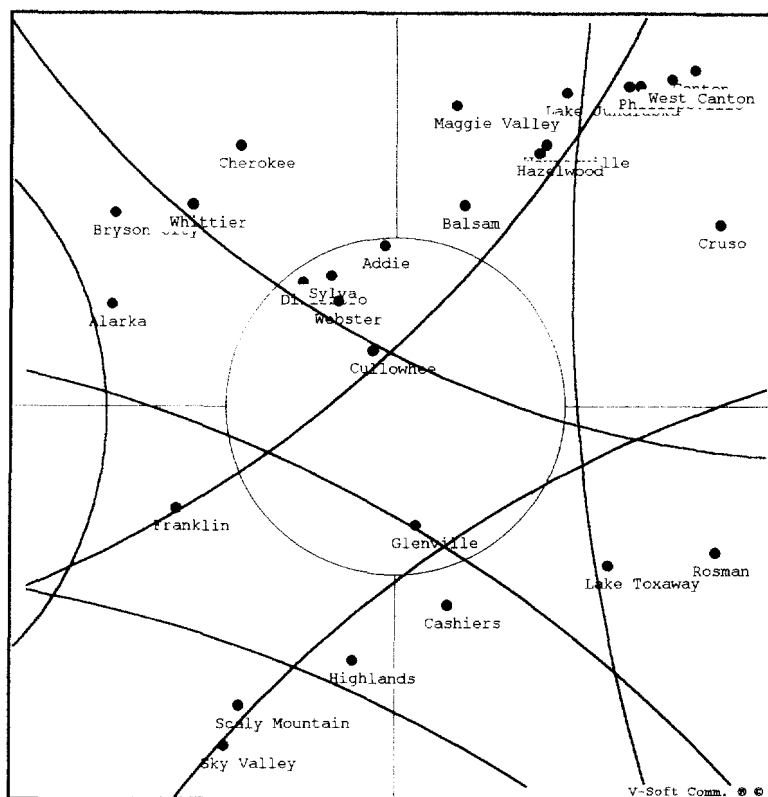
  
Clyde Scott, Jr.  
EME Communications

EXHIBIT - 1 --- PROPOSED SITE FOR DILLSBORO, NC

FMCONT<sup>(TM)</sup> LOCATE STUDY

Ch 237 A  
95.3 MHz

N. Lat. 35 15 56  
W. Lng. 83 09 16



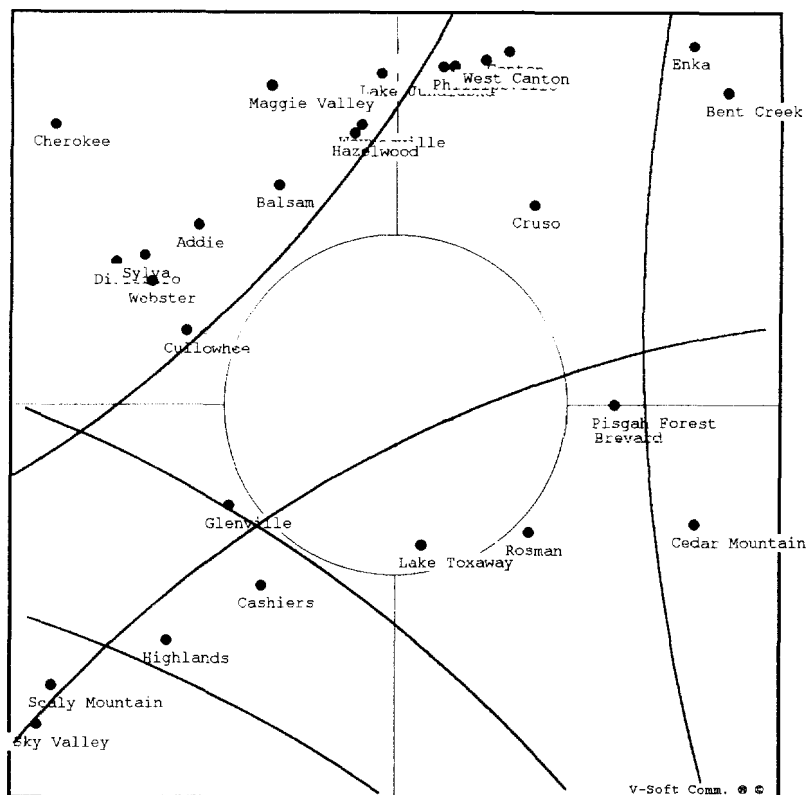
Call	CH#	Location		D-KM	Azi	FCC	Margin
WYFC	237A	Clinton	TN	119.08	319.1	115.0	4.08
WIKQ	235C	Greeneville	TN	99.23	24.8	95.0	4.23
WBTS.C	238C1	Athens	GA	141.98	207.1	133.0	8.98
RADD	237A	Due West	SC	128.35	147.7	115.0	13.35
WNKS	236C	Charlotte	NC	182.10	86.0	165.0	17.10
WBTS	238C1	Athens	GA	158.90	201.4	133.0	25.90
WCVPFM	240A	Robbinsville	NC	58.35	269.3	31.0	27.35
WALV	237A	Cleveland	TN	155.11	266.3	115.0	40.11
WNKS.A	236C	Charlotte	NC	206.10	88.2	165.0	41.10
WALV.A	237A	Cleveland	TN	169.33	265.2	115.0	54.33
WTXM.C	239A	Maryville	TN	100.76	308.9	31.0	69.76
WTXM	239A	Maryville	TN	100.76	308.9	31.0	69.76

EXHIBIT - 2 --- PROPOSAL FOR ROSMAN SHOWING LACK  
OF CITY GRADE COVERAGE

FMCONT<sup>(TM)</sup> LOCATE STUDY

Ch 237 A  
95.3 MHz

N. Lat. 35 15 00  
W. Lng. 82 57 37



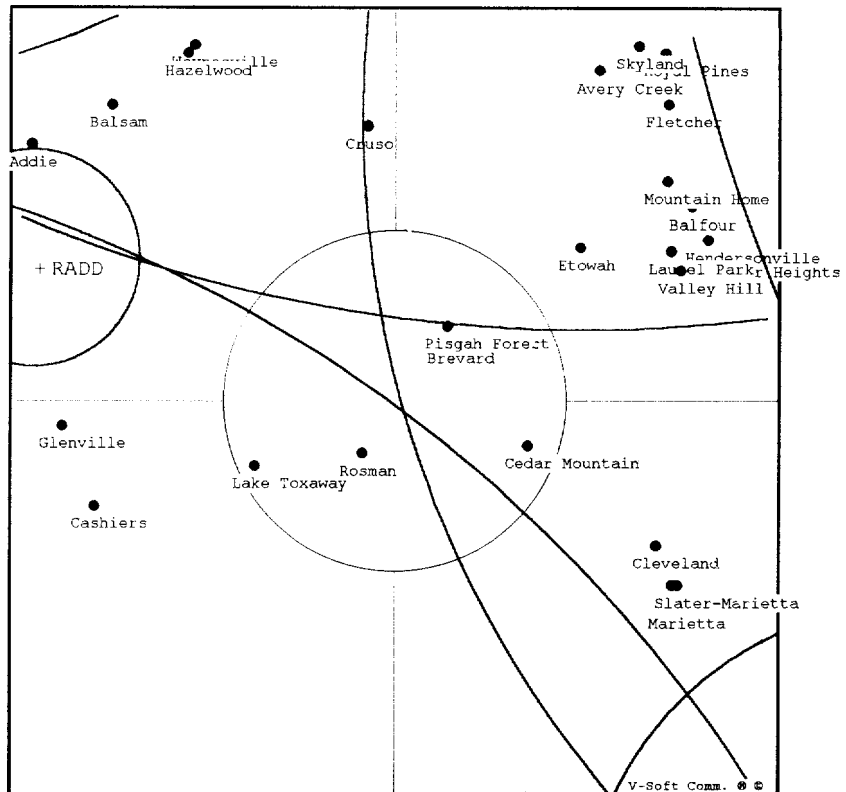
Call	CH#	Location		D-KM	Azi	FCC	Margin
WNKS	236C	Charlotte	NC	164.61	85.1	165.0	-0.39
WIKQ	235C	Greeneville	TN	94.84	14.7	95.0	-0.16
RADD	237A	Due West	SC	118.26	154.6	115.0	3.26
WBTS.C	238C1	Athens	GA	149.46	213.6	133.0	16.46
WYFC	237A	Clinton	TN	132.53	314.0	115.0	17.53
WNKS.A	236C	Charlotte	NC	188.50	87.7	165.0	23.50
WBTS	238C1	Athens	GA	164.67	207.4	133.0	31.67
WCVPFM	240A	Robbinsville	NC	76.02	270.9	31.0	45.02
WALV	237A	Cleveland	TN	172.66	267.4	115.0	57.66
WALV.A	237A	Cleveland	TN	186.82	266.3	115.0	71.82

EXHIBIT-3 --- POSSIBLE CHANNEL FOR ROSMAN ONCE  
PROPOSED APPLICATION FOR WNGC IS GRANTED

FMCONT<sup>(TM)</sup> LOCATE STUDY

Ch 290 A  
105.9 MHz

N. Lat. 35 11 14  
W. Lng. 82 47 15



Call	CH#	Location		D-KM	Azi	FCC	Margin
WNGC	291C1	Toccoa	GA	120.05	221.7	133.0	-12.95
WNGC.A	291C1	Toccoa	GA	133.31	215.5	133.0	0.31
WAGIFM	287C	Gaffney	SC	95.54	74.1	95.0	0.54
WRZK.C	290C3	Colonial Heigh	TN	149.71	6.9	142.0	7.71
RADD	237A	Dillsboro	NC	36.70	291.2	10.0	26.70
WFMX	289C	Statesville	NC	202.13	68.6	165.0	37.13
R---	292A	Simpsonville	SC	69.75	135.7	31.0	38.75
AVAC	290A	Tazewell	TN	158.45	333.3	115.0	43.45
WZNY	289C	Augusta	GA	214.53	155.8	165.0	49.53
WSEVFM	288A	Gatlinburg	TN	90.97	309.4	31.0	59.97

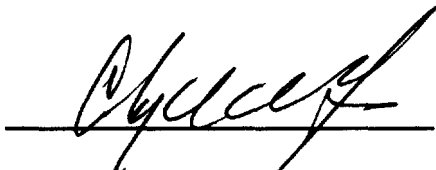
**DECLARATION AND QUALIFICATIONS OF PREPARER**

STATE OF GEORGIA )  
CITY OF MOULTRIE ) §  
COLQUITT COUNTY )

CLYDE SCOTT, JR. , UNDER PENALTY OF PERJURY, DECLARES AND SAYS  
HE IS A BROADCAST ENGINEER AND PRESIDENT OF EME COMMUNICATIONS.  
HE HAS BEEN ENGAGED TO PREPARE THE ATTACHED TECHNICAL EXHIBIT.

THAT HIS QUALIFICATIONS ARE A MATTER OF RECORD BEFORE THE FEDERAL  
COMMUNICATIONS COMMISSION AND HAS BEEN ACTIVE IN THE BROADCAST  
INDUSTRY SINCE 1965 AND IN BROADCAST ENGINEERING SINCE 1972. THAT  
HE IS THE HOLDER OF GENERAL RADIOTELEPHONE LICNESE NO. PG-6-30133.

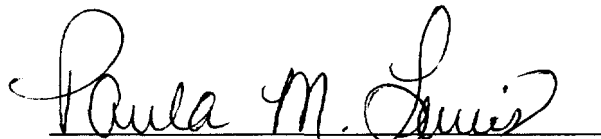
THAT THE ATTACHED TECHNICAL EXHIBIT WAS EITHER PREPARED BY HIM  
OR UNDER HIS DIRECT SUPERVISION. ALL MATERIAL AND EXHIBITS HERETO  
ARE BELIEVED TO BE TRUE AND CORRECT.

  
CLYDE SCOTT, JR.

CERTIFICATE OF SERVICE

I, Paula M. Lewis, a secretary in the law firm of Pepper & Corazzini, L.L.P., do hereby certify that on this 25th day of July, 2000, copies of the foregoing letter were mailed, postage prepaid, to the following:

John M. Pelky, Esq.  
Garvey, Shubert & Baer  
1000 Potomac Street, N.W.  
Washington, D.C. 20007  
Counsel to Chase Broadcasting, Inc.

  
Paula M. Lewis